

## The Honorable Ronald B. Leighton

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

STORMANS, INCORPORATED, et al.,  
Plaintiffs,

VS.

Civil Action No. C07-5374 RBL

**DECLARATION OF STEVEN T.  
O'BAN**

MARY SELECKY, Secretary of the Washington State Department of Health, et al.,

## Defendants,

and

JUDITH BILLINGS, et al...

### Intervenors.

I, STEVEN T. O'BAN, declare and state:

1. I am over eighteen years of age and make this declaration on personal knowledge.

2. I am one of the attorneys representing the Plaintiffs in the above action. I have personal knowledge of the facts set forth herein, and am competent to testify thereto.

DECLARATION OF STEVEN T. O'BAN  
(C07-5374) - 1

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3. Plaintiffs filed the Complaint on July 25, 2007 and amended it the next day, July 26, 2007. Trial is currently set for November 28, 2011.

4. On April 21, 2011, I received an email from Thomas L. Boeder, attorney for Intervenor Defendants, indicating that Intervenor Defendants do not oppose Plaintiffs' proposed Second Amended Complaint. Defendant State indicated by email that it opposes the amendment.

5. Attached to this declaration are true and correct copies of the following exhibits:

Exhibit A: Plaintiffs' proposed Second Amended Complaint in redline format;

Exhibit B: Press release from the US Food and Drug Administration, dated August 13, 2010;

**Exhibit C:** Excerpt from the drug manufacturer website for *ella* (<http://www.ellainfo.com/>) entitled, “3 Easy Ways to Get *ella*?”; and

**Exhibit D:** Excerpt from the drug manufacturer website for *ella* (<http://www.ellainfo.com/>) entitled, “NEW *ella* Has the Power to Help Keep These 2 Apart.”

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Signed this 28th day of April, 2011 in Seattle, WA.

s/ Steven T. O'Ban

Steven T. O'Ban